

Patagon, a company which focuses on strategic investments in the blockchain and digital asset industry. I have experience with software development related to blockchain protocols as well as with business models that focus on this emerging industry, including ventures focused on decentralized finance (“DeFi”) and tokenization of assets. In particular, I am familiar with the operation of Decentralized Autonomous Organizations (“DAOs”) and blockchain-based protocols that allow for digital assets to be used for the operations and financing of such DAOs.

3. As set forth in the Complaint, Patagon began acquiring SPA tokens in September 2022 and holds 5,382 SPA tokens, which represent interest in a venture known as “Spartacus DAO” (the “DAO”).

4. According to information available on the internet, including an analysis of public blockchain-based digital addresses, websites, and email addresses, it appears that Spartacus DAO was founded by Defendant, Wei Wu. References to Defendant in this Affidavit refer to actions by a pseudonymous individual (“Spartacus”) who is believed to be Defendant Wu.

Spartacus DAO and SPA Tokens

5. Spartacus DAO was formed by Defendant as a blockchain-based venture involving the sale of tokens (mainly “SPA” tokens), the proceeds of which would be used—according to Defendant—to fund investment which would earn investors “risk-adjusted return with DAO governance”.¹ Due to my experience with blockchain-based decentralized finance and other

¹ Spartacus Finance blog, *Introducing Spartacus*, <https://docs.spartacus.finance/introducing-spartacus/introducing-spartacus>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit A**.

statements made by Defendant (*e.g.*, “\$SPA, the governance token for Spartacus DAO”),² I understood this to mean that the SPA token would be used to govern the Spartacus DAO and its assets. As explained below, this understanding was confirmed by the actual use of SPA tokens in governance votes.

6. There are two primary incentives to invest in SPA tokens, which, by analogy, mirror the traditional incentives of an investor in a Company. Similar to equity in a company, these dual incentives are the (i) economic and (ii) governance rights.

7. With respect to economic rights, Defendant promised that SPA holders would earn “returns,”³ that SPA would be tradable on secondary markets,⁴ and advertised the “market cap” of SPA.⁵ Defendant advertised that the “returns” for SPA holders would be derived from the efforts of Defendant, who would use the funds invested by SPA purchasers to build financial and technical products, such as a trading strategy and decentralized exchange.⁶

8. According to Defendant, SPA tokens represent a right to treasury assets, pooled together “when everyone bonds the underlying assts into a common reserve currency [SPA],

² *Id.*

³ Spartacus Finance blog, *Staking*, <https://docs.spartacus.finance/guides-to-arena/staking>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit B**.

⁴ See @Spartacus_Fi status dated Apr. 6, 2022, TWITTER.COM, https://twitter.com/Spartacus_Fi/status/1511700348398112772?s=20. A true and correct screenshot of this webpage captured on Apr. 21, 2023 is attached hereto as **Exhibit C**. See also Spartacus Finance blog, *Announcing Spartacus 2.0*, <https://docs.spartacus.finance/announcing-spartacus-2.0/announcing-spartacus-2.0>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit D**.

⁵ Spartacus Finance blog, *Phase I - Project Launch*, <https://docs.spartacus.finance/introducing-spartacus/phase-i-project-launch>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit E**.

⁶ See Exhibits A, D.

creating a strong ‘bonding’ for the whole community.”⁷ The incentive to pool together these assets was a purported use of funds via “treasury vault strategies to earn risk-adjusted return with DAO governance[,]” in addition to using the funds to build the proposed financial products and services.⁸ Defendant promised this investment would benefit from “sustainable growth and expansion of [the] Spartacus DAO.”⁹ According to Defendant, this structure meant that the assets invested in SPA were “backed” and therefore redeemable. According to current estimates of the “backing per SPA” as published by Defendant, the 5,382 SPA tokens that Patagon holds are eligible to be redeemed for at least \$197,627.04, however, as discussed in paragraphs 33-34, the amount actually due to Patagon is not clear due to Defendant’s obfuscation of the DAO’s assets and their value.

9. Thus, SPA tokens were sold to purchasers on the basis that they would be “backed by a basket of assets (DAI, SPA-DAI LP tokens, etc.). The backing assets provide an intrinsic value for SPA tokens.”¹⁰ Defendant has represented that “each SPA is always backed by some amount of 1 D[AI].”¹¹

10. For reference, “DAI” is another cryptocurrency, which is intended to serve as a so-called “stablecoin”, being always worth \$1.00. “SPA-DAI LP tokens” are “liquidity provider” tokens, which are tokens a user receives if they provide liquidity in the form of DAI to the treasury.

⁷ Exhibit A.

⁸ *Id.*

⁹ Spartacus Finance blog, *Phase II – Sustainable Growth and Expansion*, <https://docs.spartacus.finance/introducing-spartacus/phase-ii-sustainable-growth-and-expansion>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit F**.

¹⁰ Exhibit E.

¹¹ Spartacus Finance blog, (*A, A*), <https://docs.spartacus.finance/guides-to-arena/1-1>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit G**.

11. An investment in SPA includes various ways to profit. One is to “bond,” which means to provide “liquidity” in the form of other cryptocurrencies (such as DAI) to the DAO treasury in exchange for SPA tokens.¹² Then, the other is to “stake” the SPA, which means to deposit the SPA in into a pool of funds in exchange for yield, or interest, in the form of rewards (paid out in additional SPA).¹³

12. In short, “bonding” involves investing other assets, such as DAI stablecoins, into the DAO treasury in exchange for SPA, and “staking” involves locking up SPA to reduce the circulating supply of SPA and earn more SPA as interest. In bonding, a user receives a fungible asset tradable on secondary markets (SPA). In staking, the user deposits that asset into an interest-bearing position. The more SPA a user stakes, the higher interest they earn on that staked SPA.

13. Defendant advertised various economic incentives to investors in SPA.

14. For instance, Defendant has in the past advertised APY as high as 262,518.7%, 299,745.6%, and 302,727.4% (for reference, a 302,727.4% APY, there would be a five-day return of 11.6060%) for staking SPA.¹⁴

¹² See Spartacus Finance blog, *Bonding*, <https://docs.spartacus.finance/guides-to-arena/bonding>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit H**.

¹³ See Exhibit B.

¹⁴ Dustin Norris (Dec. 16, 2021), *317,000% APY! Spartacus Dao Staking | Tutorial and Explained* [at 8:43], YOUTUBE.COM, <https://youtu.be/SqhiJO7z0PY?t=523>; Jooviers Gems (Dec. 2, 2021), *How I Made \$300 in 1 Day Staking on the Spartacus DAO* [at 2:59], YOUTUBE.COM, <https://youtu.be/CJIF9AxAzxM?t=179>; Cruising on Crypto (Dec. 1, 2021), *Spartacus DAO. 320,000% APY and it has the safety of stable coin backing. Too good to be true?* [at 10:10], YOUTUBE.COM, <https://youtu.be/8EcD4t-Dslw?t=610>. True and correct screenshots of YouTube videos posted by content creators promoting Spartacus DAO and SPA where the cited APYs can be seen are attached hereto as **Exhibit I**.

15. Defendant represented that an investment in SPA would lead to “long term, passive rebase returns. The rebase rewards come from proceeds of the bond sales. The rewards to stakers are pro rat[a] to their staked amount.”¹⁵

16. Investors are able to check their financial position via a website created by Defendant which displays supposed metrics associated with an investment in SPA.¹⁶

17. SPA tokens are also tradable on secondary markets, a fact which Defendant advertised.¹⁷

18. With respect to the governance incentives, SPA tokens were also sold to purchasers on the basis that they would be “the governance token for Spartacus DAO.”¹⁸ For instance, Defendant promised that “[f]uture development work can be funded via the Spartacus DAO through a DAO voting procedure.”¹⁹

19. SPA was therefore sold to investors such as Patagon as a ‘treasury-backed investment with a “risk free value”,²⁰ and also a governance token for the DAO—particularly with respect to how funds invested in the DAO would be managed.

¹⁵ Exhibit B.

¹⁶ <https://app.spartacus.finance/#/dashboard>. A true and correct screenshot of this webpage captured on Apr. 24, 2023 is attached hereto as **Exhibit J**.

¹⁷ See Exhibit C.

¹⁸ Exhibit A.

¹⁹ *Id.*

²⁰ Exhibit D.

Defendant Breaches Promises and Misuses Funds

20. As set forth in the Complaint, despite accumulating significant amounts of funds, currently totaling a treasury value as advertised by Defendant as more than \$35,500,000, Defendant has not delivered on his promises with respect to SPA tokens or the rights with which they are associated.

21. Instead, it appears from public blockchain-based data that Defendant has transferred funds from the accounts listed in Paragraph 32 to personal accounts, or otherwise withdrawn or misused those funds, and intends to further withdraw or misuse those funds, without the approval of the DAO. These transfers were not approved by any governance vote.

22. Blockchain-based governance could occur via votes hosted on Snapshot, a web-based service. In the past, Snapshot has been utilized to take various votes about the governance of Spartacus DAO. These included votes about such things as allocation of treasury assets into various investment positions and appointment of candidates to serve in managerial roles for the DAO.²¹

23. As described in the Complaint, on or about April 6, 2022, Defendant proposed to launch “Spartacus 2.0” via Snapshot, which would involve a redemption of assets for electing holders, and allegedly re-invigorating plans for the DAO, which had so far not accomplished

²¹ See SNAPSHOT.ORG, e.g., *SIP-010 Allocating treasury Dai to more Curve Farming pools*, <https://snapshot.org/#/spartacusdao.eth/proposal/0x6c6a42fc14068841a31877d082f981fd9f8775f3935fbfc62b344a5eab75ca53>; *SIP-014 FTM-Tomb LP Farming on Solidex*, <https://snapshot.org/#/spartacusdao.eth/proposal/0x4d33fa0c33f51d3032772cd6ec17c9ef5966ed4b619ce0670b1a90b9981b61b1>; *Snapshot vote for Community Management Lead Position*, <https://snapshot.org/#/spartacusdao.eth/proposal/0x0b6f554515750495ba5a2dfa8a76febf7971658bce339dc5d61b004e104fa538>. True and correct screenshots of these webpages captured on Apr. 19, 2023 are attached hereto as **Exhibit K**.

anything. Defendant promised to create a decentralized exchange offering “the most market competitive fees” and that this would “be a capital efficient engine to capture sustainable, long term values.”²²

24. According to publicly available blockchain transaction data, prior to the announcement of the Spartacus 2.0 redemption option, it appears Defendant accumulated additional SPA tokens in anticipation of the redemption which he, of course, controlled. In particular, 18 distinct cryptocurrency wallets were used to directly reap proceeds in excess of \$4,000,000.

25. Patagon began acquiring SPA in September of 2022 and has purchased and holds 5,382 SPA to date. Patagon purchased SPA in reliance on Defendant’s representations that it would be (i) of future value according to efforts made by Defendant; and (ii) used for governance, including governance with respect to the treasury and assets of the DAO itself.

26. On September 22, 2022, five months after the Spartacus 2.0 announcement (following which no material development had occurred), Spartacus DAO investors organized and held a vote of no confidence in the Spartacus DAO leadership, namely Defendant.²³ The purpose of this vote was to dissolve the Spartacus DAO and to give token holders another opportunity to redeem their tokens. In order to pass, the vote required that both a supermajority (75%) and a quorum (20%) of SPA token holders vote in favor of dissolution. The vote opened on September

²² SIP-015: *Spartacus 2.0 with the redemption option*, SNAPSHOT.ORG, <https://snapshot.org/#/spartacusdao.eth/proposal/0x34656a7bd9e58821f4cb81d0ca374bd14fa3966235fe0e7c03397a7045d84340>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit L**.

²³ Although this vote was organized and put forth by Spartacus DAO investors (rather than Defendant), it used the same mechanism Defendant had previously used (Snapshot) to facilitate the vote.

22 and passed on September 29, 2022, with 100% of participants voting in favor of dissolution and redemption.²⁴

27. Defendant took issue with the vote when it was proposed and subsequently refused to act in accordance with its results. Both during and after the vote, Defendant posted derogatory comments on Discord (an online messaging service), calling voters “R[isk] F[ree] V[alue] looters” and “hunters” (versus “genuine investors” or “good investors”) while refusing to comply with the result. Instead, Defendant banned from the Discord any persons which advocated for the results of the vote to be executed.

28. Defendant subsequently ignored all calls for him to honor his promises and relinquish control of the treasury and related assets.

Defendant Prepares to Abscond with Treasury Funds

29. To date, Defendant has not allowed SPA holders to redeem their tokens despite the September 2022 vote results which clearly satisfied supermajority and quorum requirements.

30. Instead, it appears that Defendant is planning to abscond with Patagon and other investor’s assets. Defendant’s recent activities show that the funds of the DAO are at risk of being lost forever.

²⁴ *SpartacusDAO Dissolution*, SNAPSHOT.ORG, <https://snapshot.org/#/spacommunity.eth/proposal/0x4996f5b5d6e33ed34638ffcc4dda7d20557b11193260b773eae133c689b63a09>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit M**.

31. Money that Defendant earned from investments such as Patagon's were sent to the DAO's group of cryptocurrency wallets, collectively referred to herein as the "treasury."²⁵ A cryptocurrency wallet, similar to a physical fiat wallet, is a smart contract address that "holds" cryptocurrency. A cryptocurrency wallet can be controlled by one or multiple persons, who are required to approve any transactions into or out of the wallet. Defendant represented that the resulting fund pool would be contributed to this common treasury which he promised would be controlled by multiple persons as representatives of the Spartacus DAO.

32. According to information published by Defendant, at least the following cryptocurrency wallets constitute and contain assets which include the treasury and other assets of the DAO²⁶:

- a. 0xFa5a5F0bC990Be1D095C5385Fff6516F6e03c0a7
- b. 0x8CFA87aD11e69E071c40D58d2d1a01F862aE01a8
- c. 0xB7396019BC1Ee7E771155D138D57Ee9aBf16F5b4
- d. 0x251616944e771cD83d57aB7b073D291FE841A4DF

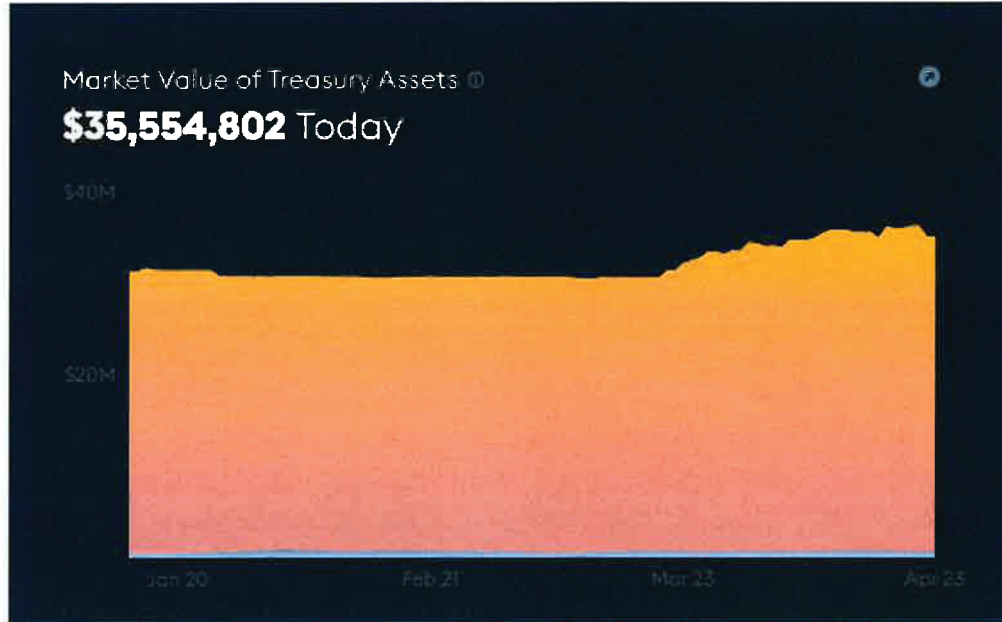
33. These wallets hold more than \$28,000,000 in funds according to present-calculated values as published by www.coinmarketcap.com and public blockchain analytics information.²⁷ According to public blockchain transaction data, these wallets also previously held funds which were removed for apparently personal use by Defendant.

²⁵ Due to Defendant's misuses and obfuscation of funds, those in the official "treasury" wallet do not include all of the funds that are theoretically meant to back SPA tokens, which instead are spread across multiple wallets.

²⁶ Addresses listed in (c) and (d) include assets associated with "Spartacadabra," a subset product of Spartacus DAO.

²⁷ See e.g., <https://ftmscan.com/address/0xfa5a5f0bc990be1d095c5385fff6516f6e03c0a7>.

34. Defendant advertises a treasury value of, as of April 24, 2023, \$35,554,802.²⁸



35. As a result of Defendant’s obfuscation and misuse of DAO funds, not all of the funds of the DAO, including those invested by Patagon, are accounted for—given the discrepancy between the advertised value of treasury assets and amount in the wallets identified in Paragraph 32. And therefore, the exact amount due to Patagon is unclear.

36. Based on all available information, including the lack of intervention or statement by any other party at any point during the aforementioned events and an analysis of activity related to wallets controlled by Defendant, I am able to confidently infer that Defendant is the sole controller of the treasury wallets. In fact, other observers in the Discord have remarked that Defendant must take efforts to follow through on promises to implement a “multi-signature” wallet

²⁸ <https://app.spartacus.finance/#!/dashboard>.

for the treasury assets, specifically because it is improper (and a breach of promises to SPA holders) for Defendant to have sole control.

37. After months of inactivity other than the Spartacus 2.0 redemption, and after another quiet period with no further updates from Defendant, on January 3, 2023, Patagon's counsel sent a demand letter to Defendant via email at maxawei@gmail.com and spartacusfinance@gmail.com. This demand letter—although no response was received—prompted a flurry of activity from Defendant that exhibits a pattern of denial and behavior that causes me to believe that Defendant plans to abscond with the assets in question.

38. First, on January 16, 2023, Defendant returned to Discord after a period of inactivity, claiming he had issues which prevented him from working on the project, but promising to “come back with plans forward,” involving “new products and directions.”

39. But unsurprisingly, Defendant instead vanished once more, only to reappear on March 10, 2023, with the suggestion that he would “diversify” the “treasury’s” assets due to “current market conditions” including a banking crisis. In a later message on March 22, Defendant reiterated this plan while also affirming that “*any allocation of the treasury assets will be subject to community vote.*” (italics added).²⁹

40. But Defendant's proposal to “diversify” the treasury assets by removing them from the treasury wallets was suspicious because it specifically sought to “diversify” the funds into risky DeFi strategies that are prone to hacking, manipulation, and risk. In my experience, these DeFi strategies involve significant risks of loss due to their speculative nature, use of emerging

²⁹ The Spartacus DAO Discord (Mar. 22, 2023). A true and correct screenshot of this Discord post is attached hereto as **Exhibit N**.

technology, practical issues, and being prone to hacking or technical glitches and errors. Although “diversification” in traditional finance is sometimes a good thing, in this case, the uncalled for transition of stablecoin treasury balance into other, riskier, assets, is a suspect suggestion.

41. As a result of my experience with DeFi strategies and DAOs generally, I believe it is possible that the treasury assets could be lost, including in a situation where Defendant manipulates the price of treasury assets, or fakes a hack or error to abscond with the assets. I am familiar with other DAOs which have experienced fake hacks and errors, effectively scamming their investors. For instance, earlier this year, the Commodity Futures Trading Commission, Securities and Exchange Commission, and Department of Justice charged a man in the Southern District of New York for manipulation of digital assets to obtain over \$100 million in illicit profits for himself.³⁰

42. On the Discord forum, where Spartacus DAO members convene to communicate, there was an overwhelming lack of willingness from the DAO participants, including Plaintiff, to agree to this risky procedure.

43. But, seemingly having an about-face about community governance (considering Defendant did not honor the results of the September redemption vote), Defendant attempted to host a vote of SPA holders on the proposal (the “Diversification Vote”), which failed with 99.96%

³⁰ *Alleged Perpetrator of \$100 Million Crypto Market Manipulation Scheme to Make Initial Appearance in the Southern District of New York*, DEPARTMENT OF JUSTICE, <https://www.justice.gov/usao-sdny/pr/alleged-perpetrator-100-million-crypto-market-manipulation-scheme-make-initial>; *SEC Charges Avraham Eisenberg with Manipulating Mango Markets’ “Governance Token” to Steal \$116 Million of Crypto Assets*, SEC, [HTTPS://WWW.SEC.GOV/NEWS/PRESS-RELEASE/2023-13](https://www.sec.gov/news/press-release/2023-13); *CFTC Charges Avraham Eisenberg with Manipulative and Deceptive Scheme to Misappropriate Over \$110 million from Mango Markets, a Digital Asset Exchange*, CFTC, <https://www.cftc.gov/PressRoom/PressReleases/8647-23>.

of represented interests voting no.³¹ To reiterate, the explanation for the proposal as set forth in Discord for the Diversification Vote explicitly stated: “again, any allocation of the treasury assets will be subject to community vote.”³²

44. According to public blockchain transactions, it appears that wallets believed to be controlled by Defendant in his personal capacity have interacted with the protocol “Tornado Cash”. Transactions believed to be conducted by Defendant which evidence the use of Tornado Cash are available on public blockchain analytics websites. For instance, transaction hash 0x1A6e210DCdEF318CA8c11AaaAb7e305E49Eb0e7D exhibits a transfer involving the Tornado Cash smart contract associated with a wallet believed to be controlled by Defendant.

45. I understand that the Tornado Cash protocol and related parties are subject to sanctions by the United States Office of Foreign Asset Control. According to the United States Treasury, which has sanctioned Tornado Cash and its related entities, Tornado Cash is a virtual currency “mixer” that launders the proceeds of cybercrimes, including those committed against victims in the United States.³³ According to the Treasury, the import of the sanctions are that, among other things, all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated or otherwise blocked persons (such as Tornado Cash and its blockchain-based addresses) are prohibited unless authorized by a general

³¹ *SIP-017 Diversification of treasury assets*, SNAPSHOT.ORG, <https://snapshot.org/#/spartacusdao.eth/proposal/0x4dc88375a62c448a23aef86b3dcc3ee948574bcf7da546ebe186b75ce0e2f214>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit O**.

³² Exhibit N.

³³ U.S. Department of the Treasury (Aug. 8, 2022). *U.S. Treasury Sanctions Notorious Virtual Currency Mixer Tornado Cash*, TREASURY.GOV, <https://home.treasury.gov/news/press-releases/jy0916>. A true and correct screenshot of this webpage captured on Apr. 19, 2023 is attached hereto as **Exhibit P**.

or specific license issued by OFAC, or exempt.³⁴ I do not believe that Defendant is licensed or exempt from these sanctions.

46. As described by the U.S. Treasury, a “mixer” service is used by persons to obscure the normally traceable path of assets on a blockchain.³⁵ If Defendant were to remove the assets from the treasury wallets in question, they would be at extreme risk of loss due to the potential for Defendant to obscure their path.

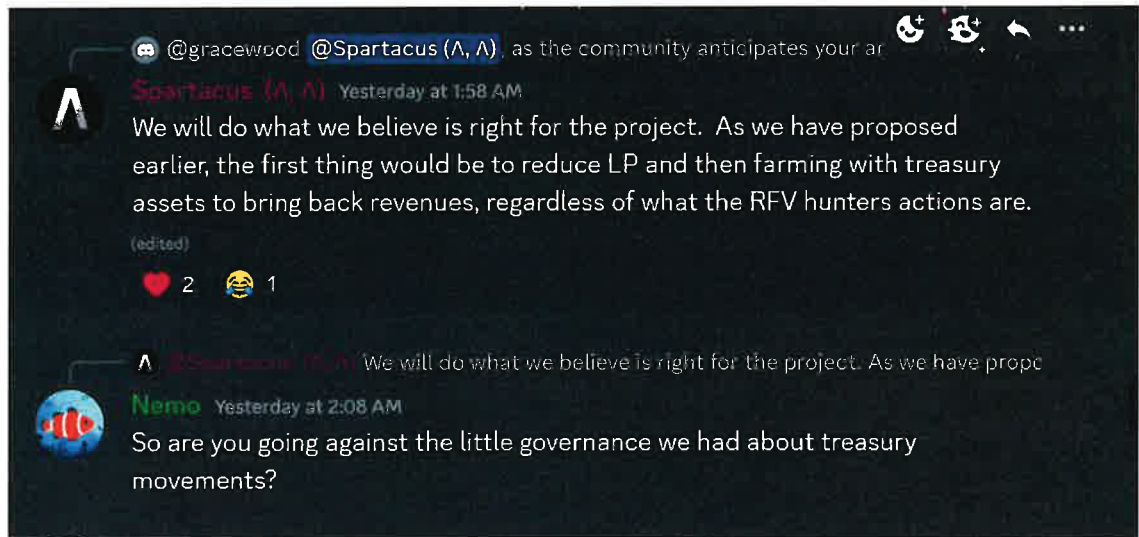
47. With the vote to remove the funds from the treasury having failed and his likely knowledge of this lawsuit, Defendant appears to be increasingly desperate according to observations of his language and activity in Discord. Despite the failed vote, Defendant has communicated that the vote was “malicious” and, in response to questions from concerned investors about whether he would honor the results of the overwhelming no-vote to the proposal, Defendant stated: “we will have to do what we believe is right.”

48. Since making this statement on April 12, 2023, Defendant was not active in the Discord, other than with respect to posting on April 17th “announcement coming.” Then, on April

³⁴ *Id.*

³⁵ *Id.*

23, 2023, Defendant posted the following message, which I understood to mean Defendant intends to ignore the results of the Diversification Vote.



49. I believe Defendant is preparing to move, abscond with, or remove the treasury funds—potentially with the aid of the sanctioned Tornado Cash mixer.³⁶

50. In particular, once funds are maliciously transferred on the blockchain, the potential to recover them is significantly reduced, even without the use by the culprit of Tornado Cash.

51. To trace assets across the blockchain, in general, professional analytics services are needed, and these services are generally too expensive for Patagon to engage, even before taking into account the added difficulty of Defendant employing a mixing service such as Tornado Cash. If the funds are stolen, it is likely that Defendant would rely on Tornado Cash in an attempt to

³⁶ In addition, a review of public information associated with Defendant shows that an organization previously formed by Defendant, Inspero Inc., previously absconded with at least \$987,384 in investor assets. *See* “Vinci – First Smart Headphones with Artificial Intelligence” <https://www.kickstarter.com/projects/inspero/vinci-first-smart-3d-headphones-that-understand-yo/comments> (exhibiting comments which show investors “ha[d] been had” and “never received” their products.).

secure them, which would greatly hinder any chance of recovery, and it may be prohibitively expensive—and unlikely to succeed—to do attempt any such tracing.


Executed on April 25th, 2023



Diogenes Casares

Subscribed and sworn to before me on this

25th day of April, 2023



Signature

Notary Public, State of New York

My commission expires: 09-08-2026

SHIRLEY SM LEIVA
Notary Public, State of New York
No. 01LE6013066
Qualified in Queens County
Certificate Filed in New York County
Commission Expires Sept. 8, 2026